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OFFICE OF PETITIONS

In re Application of
Mosing : DECISION
Application No. 10/027,502 : ON PETITION
Filed: November 27, 2001 :
Attorney Docket No. FRK-086 :
For: SLIP GROOVE GRIPPING DIE :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely and properly reply to the final Office action, mailed July 24, 2003, which set an extendable three month period for reply. Having obtained no extensions of time, this application became abandoned on October 25, 2003 for failure to timely reply. A Notice of Abandonment was mailed on January 29, 2004.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application.;
- (2) the petition fee as set forth in 37 CFR 1.17(m);

- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioner has not filed a proper reply to the July 24, 2003 final Office action. Petitioner is reminded that after a final action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

The examiner of record has indicated that the proposed amendment filed January 21, 2005 with the petition to revive does not place the application in condition for allowance and will not be entered because it raises new issues. The application remains abandoned.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Regarding fees, pursuant to 37 CFR 1.136, an extension of time must be filed **prior to the expiration of the maximum period obtainable for reply to avoid abandonment**. The \$1,020.00 extension of time was submitted on January 21, 2005. Since the \$1,020.00 extension of time was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The Revocation and Power of Attorney and Appointment of New Power of Attorney, filed January 21, 2005, has been accepted and made of record. Please find enclosed Notices relating to the power of attorney change.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosures: Notices regarding change in power of attorney